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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,074	10/27/2003	Nathan R. Belk	073671.0183	3795
5073	7590	08/13/2008		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980				
EXAMINER				
YENKE, BRIAN P				
ART UNIT		PAPER NUMBER		
2622				
NOTIFICATION DATE		DELIVERY MODE		
08/13/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com

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Office Action Summary

Application No.

10/694,074

Applicant(s)

BELK, NATHAN R.

Examiner

BRIAN P. YENKE

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Response (05/27/08).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) all the above is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

- I. Applicant's arguments filed 05/27/08 have been fully considered but they are not persuasive.

Applicant's Arguments

a) Applicant states that Birleson teaches away from "a filter operable to receive an input signal comprising a first number of television channels and further operable to communicate an intermediate output signal comprising a second number of television channels less than the first number of television channels"

b) Applicant states that the Birleson-Fulga combination is improper since both references specifically teach away from the claimed invention. Applicant states that regarding claim 2 the filter 101 of (Birleson (and Fulga) passes "all channels in the television band" and therefore teaches from filtering/tuning down the number of channels.

Examiner's Response

a)-b) The examiner disagrees as stated in the rejection, Fulga was incorporated to illustrate that it has been known in the art to receive an x number of channels and produce a lesser number of channels (this was disclosed in Fulga's background discussion). It is noted that Fulga does disclose a filter which passes all filters as opposed to conventional no-all pass filters. As noted in the rejection Birleson also discloses this prior art feature of filtering down the number of channels. Thus it was known to filter down or not the number of channels in a receiving system. The examiner relies upon the Supreme Courts decision in KSR vs Teleflex, wherein if a person of ordinary skill in the art can implement a predictable variation and would see the benefit of doing so a obviousness rejection likely bars it's patentability. In the instant case the passing of all channels or passing of only a few channels, produces expected results as stated below in the rejection. In the event the applicant deems that unexpected results are derived by using a traditional/conventional feature in the invention the examiner requests the applicant to clarify such.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10-11 and 26-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Birleson et al., US 6,177,964 in view of Fulga et al., US 7,196,737.

In considering claims 1, 8, 11 and 26,

Birleson discloses a single integrated tuner circuit, which includes a filter 101, filter 109 and filter 113 being part of the tuning circuit (Fig 1). It is noted regarding the dissipating the undesired channels from being sent to the transmitter is a function of placing the filter on the tuner chip—which is stated in the applicant's specification. Birleson discloses that filter 101 in the invention is used to retrieve all TV signals wherein Prior Art the use of a filter to filter some of the channels is traditionally used (col 7, line 56-61). Thus, by simply replacing the filter 101 of Birleson with the conventional filter, would render obvious the pending claims. The use of a filter to receive more frequencies/channels or less frequencies/channels are obvious modifications to one of ordinary skill in the art (as evidenced by the prior art) and thus are not patentable.

The examiner has incorporated Fulga, US 7,196,737 which discloses that in prior art (Fig 1) it was known to utilize in a system a prefilter (101 Fig 1) which received a 1st number of channels and provided a few channels to the tuner 140. It is also a general principle that the lesser number of channels (which correlates to a smaller frequency band) also reduces the susceptibility/problems with spurious noise from unwanted channels/bands. It also appears that Fulga's description of the Prior Art (Fig 1) pertains to the previously cited Birleson reference as used herein.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Birleson which discloses a single integrated tuner circuit, by recognizing that a prefilter could be used to limit the number of channels/frequencies entering the tuner circuit as disclosed by Fulga for the known advantages as stated above.

In considering claim 2,

Although the combination of Birleson/Fulga may not explicitly recite the number of channels of the 1st/2nd/3rd as claimed, the concept of filtering/tuning down the number of channels received has been evidenced above, and the specific number of such is not considered patentable since the result is predictable (i.e. no unexpected results are derived from a filter design to filter out a select band of channels).

In considering claims 3-6,

Birleson/Fulga discloses the reception of over the air and cable broadcast, which meets the plurality of bands of channels, wherein conventional UHF/VHF systems provide the switching being bands of channels, including a plurality of capacitors/inductor as claimed, thus the examiner takes "OFFICIAL NOTICE" regarding such, in the event the applicant disagrees/traverses such notice, the examiner notes applicant's cited EP-1345324.

In considering claims 7 and 27,

Birleson discloses receiving a TV signal in the frequency range of 55MHz-806Mhz which is in the range as claimed (48Mhz-852Mhz).

In considering claim 10,

Birleson does not explicitly recite the use of a LPF, however the use of such in order to attenuate a frequency range are conventional in the art, by the very definition of such filters, thus the examiner takes "OFFICIAL NOTICE" regarding a LPF being used on an input signal.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

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pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Sinh Tran, can be reached at (571)272-7564.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571)-273-8300

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

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(FAX) 703-305-7786

(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are available to answer questions, send materials or connect

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customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.

For other technical patent information needs, the Patent Assistance Center can be reached through customer service representatives at the above numbers, Monday through Friday (except federal holidays) from 8:30 a.m. to 5:00 p.m. EST/EDT.

The Patent Electronic Business Center (EBC) allows USPTO customers to retrieve data, check the status of pending actions, and submit information and applications. The tools currently available in the Patent EBC are Patent Application Information Retrieval (PAIR) and the Electronic Filing System (EFS). PAIR (<http://pair.uspto.gov>) provides customers direct secure access to their own patent application status information, as well as to general patent information publicly available. EFS allows customers to electronically file patent application documents securely via the Internet. EFS is a system for submitting new utility patent applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.

/BRIAN P. YENKE/
Primary Examiner, Art Unit 2622

B.P.Y
05 August 2008

